



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,

vs

CIVIL ACTION NO.  
S90-00056

CONSOLIDATED RAIL CORPORATION,  
a/k/a CONRAIL,

Judge Robert J. Miller

Defendant.

CONFERENCE PHONE  
DEPOSITION OF:

JOHN W. BROUGHTON

DATE TAKEN:

February 25, 1993

TIME:

12:02 p.m. to 12:12 p.m.

PLACE TAKEN:

2000 Main Street  
Fort Myers, Florida

BEHALF OF:

Plaintiff

REPORTER:

Sandra Stevens, RPR, CM  
Notary Public  
State of Florida at Large

1 APPEARANCES:

2 For the Plaintiff:

3 United States Department of Justice  
 4 Environmental Enforcement Section  
 5 Environment and Natural Resources Division  
 6 Post Office Box 7611 Ben Franklin Station  
 7 Washington, D.C. 20044

8 By: PETER H. RUVOLO

9 For the Defendant:

10 BINGHAM, DANA & GOULD  
 11 Suite 1200  
 12 1550 M. Street, N.W.  
 13 Washington, D.C. 20005

14 By: JAMES A. ERMILIO

15 FROST & JACOBS  
 16 2500 Central Trust Center  
 17 201 East Fifth Street  
 18 Cincinnati, Ohio 45202

19 By: PIERCE E. CUNNINGHAM

20 I N D E X

20	ATTORNEY	DIRECT	CROSS	REDIRECT	RECROSS
21	Mr. Ruvolo	3			
22	Mr. Ermilio				
23	Mr. Cunningham				

## LAWYER'S NOTES

[illegible]

9           1    Thereupon,

2                               JOHN W. BROUGHTON

3    was called as a witness by the Plaintiff, examined and  
4    testified as follows:

5                               DIRECT EXAMINATION

6    BY MR. RUVOLO:

7           Q.    Would you give us your full name, please?

8           A.    John W. Broughton.

9           Q.    And your current address?

10

(b) (6)

11

12           Q.    And a telephone number at which you can be  
13    reached?

14

(b) (6)

15           Q.    For the record, Mr. Broughton, as I said before,  
16    my name is Peter Ruvolo, I'm an attorney with the Justice  
17    Department and we represent the Environmental Protection  
18    Agency in this proceeding, which is a civil proceeding.  
19    And you are not a party to that proceeding, do you  
20    understand that, sir?

21           A.    Yep.

22           Q.    With me is Mr. Ermilio who represents Conrail and  
23    Mr. Cunningham who represents Penn Central.

24                       Would you tell us a little bit about yourself,  
25    Mr. Broughton, where you grew up and what kind of education.

9           1    you had?

2           A.    I was born and raised in Albany, New York, a high  
3   school education, and I started and served an  
4   apprenticeship with what was then New York Central in 1941.

5           Q.    How long did you stay with the railroad?

6           A.    Until 1982.

7           Q.    You were with New York Central and Penn Central  
8   and Conrail?

9           A.    Yes.

10          Q.    And what positions did you hold -- let's just  
11   talk about New York Central for the time being. What  
12   positions did you hold at New York Central?

13          A.    New York Central, well, as I said, I served an  
14   apprenticeship, I was an electrician, I was a foreman, and  
15   eventually -- I was a general foreman, eventually I was --  
16   I guess I was assistant shop superintendent under New York  
17   Central.

18          Q.    And then when you took on with Penn Central what  
19   positions did you hold?

20          A.    Well, I guess the title was shop superintendent,  
21   I ran a locomotive back shop for Penn Central.

22          Q.    When you say a locomotive back shop, would you  
23   explain that for us a little bit?

24          A.    Locomotive heavy overhaul shop. It wasn't a  
25   diesel terminal, it was a locomotive heavy overhaul shop.

10           1           Q.     Where was that located?

2           A.     Cleveland, Ohio.

3           Q.     And how long did you hold that position with  
4     Conrail?

5           A.     Oh, gosh.

6           Q.     I mean with Penn Central.

7           A.     Three or four years, I guess, somewhere in there  
8     before I went to Philadelphia.

9           Q.     And when you went to Philadelphia, was that for  
10    Pennsylvania Central or was that for Conrail?

11          A.     No, that was right at the start of Conrail.

12          Q.     And what was your position in Philadelphia?

13          A.     Oh, I can't even remember what they called it. I  
14     worked for one of the vice presidents and was to give  
15     advice on the mechanical department.

16          Q.     When you say give advice, was that as to --

17          A.     Well, he assembled a group of people under him,  
18     maintenance away people, and so on, and I was the one from  
19     the mechanical department.

20          Q.     I see. Do I understand correctly that you dealt  
21     mainly with locomotives?

22          A.     Yes, sir.

23          Q.     Did you do any repairs on any other cars, type  
24     cars like freight cars or tank cars?

25          A.     No, no, I was a locomotive man.

10           1           Q.    And were you also involved in the servicing of  
2   the locomotives?

3           A.    No.

4           Q.    Just the major repairs?

5           A.    Right.

6           Q.    Could you give us an idea of what type of repair  
7   would be considered major?

8           A.    Well, we took the locomotive in, you took the  
9   trucks out, you took the engine out, you took all the  
10  components out, each component was then overhauled and it  
11  was reassembled.

12          Q.    And were there particular railyards that  
13  performed this function?

14          A.    No, New York Central was probably the only one  
15  that did very much, and that was Cleveland.

16          Q.    And how about Penn Central?

17          A.    Altoona in Cleveland.

18          Q.    And Conrail?

19          A.    Well, the same thing, eventually closed  
20  Cleveland, but prior to that it was Altoona in Cleveland.

21          Q.    Did you have any work assignment, or whether it  
22  be for advice or inspection or actual physical work, in  
23  connection with the Elkhart facility?

24          A.    No.

25          Q.    Have you ever been to the Elkhart facility?

10

1 A. No.

2 Q. If a minor repair was necessary for a locomotive  
3 would that be done at the local railyard?

4 A. Yes.

5 Q. Are there any particular types of materials that  
6 are kept in the storehouse or nearby for the repair of  
7 locomotives?

8 A. You are talking about in the terminals, the  
9 diesel terminals, the back shop or --

10 Q. Well, let's talk about the terminals first.

11 A. Well, I wasn't in terminals, but they kept all  
12 the locomotive parts, if that's what you are looking for.

13 Q. And how about things like oil and --

14 A. Oh, yes, yes, yes.

15 Q. How about in the loco shops?

16 A. The heavy repair shops?

17 Q. Yeah.

18 A. Yes, sir, you have to have lubricating oil and  
19 you have to have fuel oil.

20 Q. How about cleansers?

21 MR. ERMILIO: Objection. If you could -- excuse  
22 me, Mr. Broughton, if you could hold on for one second.  
23 Are you asking about cleansers or other materials kept in  
24 Cleveland in Altoona?

25 MR. RUVOLO: Uh-huh, at the moment. Well, and as



10           1     to his knowledge of local yards where the repairs were  
          2     done.

3           MR. ERMILIO: First of all, I think there may be  
4     a misunderstanding between the two of you, or at least  
5     there is from my end, when you talk about loco yards  
6     whether you are including Elkhart as a local yard.

7           MR. RUVOLO: Yes, I am.

8           MR. ERMILIO: Did you understand that, Mr.  
9     Broughton?

10          THE WITNESS: Yes. And I'm not familiar with  
11     Elkhart.

12          MR. ERMILIO: Secondly, I'd want the record to  
13     reflect my objection to the scope of the question here  
14     pertaining to Cleveland and Altoona or any other yard other  
15     than Elkhart.

16          Q. Was it the corporate policy that every yard would  
17     have the same type of equipment available for the repair of  
18     locomotives wherever they were located?

11

19          A. No, I don't think I'd be qualified to answer  
20     that, I couldn't tell you what they would do with that.

21          Q. Did you have anything to do with the ordering of  
22     supplies?

23          A. No.

24          Q. Are you aware of any usage by the company of  
25     degreasers or solvents or electrical cleaners?

11           1           A.    Am I aware that they used them?

2           Q.    Yeah.

3           A.    Yes.

4           Q.    Do you know what the names of the products they  
5    used?

6           A.    No, I wouldn't.

7           Q.    Do you know what the products came in, were they  
8    in drums, cans?

9           A.    Well, the list of products you gave I think would  
10   have come in either way.

11          Q.    Did you ever hear of Clevetec?

12               MR. ERMILIO:  Objection, I'm going to continue my  
13   objection.

14          A.    No, I didn't anyway.

15               MR. ERMILIO:  Excuse me for one second.  Just for  
16   this line of questioning, he said he's not familiar with  
17   Elkhart, he's never been to Elkhart so this is two or three  
18   steps removed from relevant.

19               MR. RUVOLO:  You have a continuing objection, and  
20   I'm almost finished anyway.

21          Q.    Did you ever hear of a product called in Hibisol?

22          A.    No.

23          Q.    Did you ever hear of a product called E-63?

24          A.    Well, let me say this, if I did I don't remember  
25   it, you are going back, you know, 15 years or so.

11           1           Q.    Do you know the difference between a 9-A, class  
2           9-A electrical cleaner and a class 9-B electrical cleaner?

3           A.    No, I don't personally, no.

4           MR. RUVOLO:  Thank you, Mr. Broughton, I have no  
5           further questions.

6           MR. CUNNINGHAM:  I have no questions at all.

7           MR. ERMILIO:  Neither do I.

8           (Deposition concluded.)  
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1 (STATE OF FLORIDA)

2 (COUNTY OF LEE)

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5 I, Sandra Stevens, RPR, CM, Notary Public in and for  
6 the State of Florida at Large, do hereby certify that the  
7 foregoing deposition of JOHN W. BROUGHTON was taken before  
8 me, in the cause, at the time and place, and in the  
9 presence of counsel, as stated in the caption hereto, at  
10 page 1 hereof; that the typewritten transcription,  
11 consisting of pages numbered 1 through 10, is a true record  
12 of my stenographic notes and electronic recording of the  
13 testimony of said witness and of all proceedings had at the  
14 session at which said deposition was taken.

15 IN WITNESS WHEREOF, I have hereunto subscribed my  
16 name, affixed my seal, this the 2nd day of March, 1993.

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Sandra Stevens, RPR, CM  
Notary Public  
State of Florida at Large  
My commission expires: 9-26-94  
Commission number CC 039086